

FORM 301- Rule 301

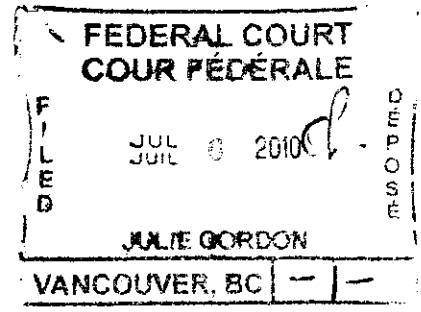
Court File No. T-1041-10

FEDERAL COURT

BETWEEN

(Court Seal)

AVID DATING LIFE INC.



Applicant

and

DENNIS BRADSHAW and LENA KARACHUN

Respondents

NOTICE OF APPLICATION

TO: DENNIS BRADSHAW
LENA KARACHUM
(the "Respondents")

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Vancouver, British Columbia, Canada.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN
IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Dated: July 06, 2010

Issued by: Original signed by Christian Pester
(Registry Officer)

Address of local office: 701 West Georgia Street
Vancouver, British Columbia, Canada
Z7Y 1B6

I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____

TO: Dennis Bradshaw
6927 Paseo Del Serra
Los Angeles, California
United States of America
90068

day of JUL 06 2010 A.D. 20 _____

Dated this JUL 06 2010 day of _____ 20 _____

TO: Lena Karachun
6927 Paseo Del Serra
Los Angeles, California
United States of America
90068

APPLICATION

1. The Applicant makes application under Sections 6 and 53.2 of the *Trade-Marks Act*, R.S.C. 1985, c. T-13 as amended, for:
 - (a) a declaration that the Respondents have directed public attention to their website in such a way to cause, or be likely to cause, confusion in Canada between the Respondents' identity, services, and business and the identity, services, and business of the Applicant;
 - (b) a declaration that the Respondents' registration, ownership, and use of the websites and URLs www.ashleymadisonsucks.com and www.ashleymadisoncam.com is confusingly similar to the Applicant's trade-mark;
 - (c) an interim and permanent injunction order restraining the Respondents from using the Applicant's trade-mark or word-mark for any website, URL, trade-name, trade-mark or business name confusingly similar thereto;
 - (d) an interim and permanent injunction order prohibiting the Respondents from stating or referring to the business name and trade-mark "Ashley Madison", on their website;
 - (e) damages in Canadian funds equivalent to \$74,277.50 (U.S.D.) for trade-mark infringement, or such damages as the Court assesses is appropriate;
 - (f) an order directing that all items and property, including, but not limited to, all copies fixed in any form whatsoever of any documents, digital or otherwise, in the possession of the Respondents bearing the term "Ashley Madison", or any other

words that phonetically sound like or similar to “Ashley Madison” regardless of their spelling, be delivered by the Respondents to the Applicant at the Respondents’ expense, to be dealt with by the Applicant as the Applicant deems appropriate;

- (g) an order that the ownership of the URLs known as www.ashleymadisonsucks.com and www.ashleymadisonscam.com be immediately transferred by the Respondents to the Applicant, such that the Applicant is the unfettered and complete owner of said URLs/websites;
- (h) the costs of this proceeding, plus all applicable taxes; and
- (i) such further and other Relief as to this Honourable Court may seem just.

2. The grounds for the application are:

- (a) the Applicant has owned and used the word-mark, Ashley Madison, since January 21, 2002 in Canada, as well as since November 20, 2002 in the United States of America;
- (b) the trade-mark, i.e. word-mark, has been used at all times in connection with the provision of online dating services, and other related online services, to consumers within Canada, as well as within four other countries;
- (c) the Respondents also provide internet based, online services, through “e-commerce” businesses, offering a wide array of online services to the public at large via the internet, including to Canadians. The Respondents offers services to

all internet-based businesses, such that it is likely the Respondents would provide services to businesses that compete directly with the Applicant, in Canada and elsewhere;

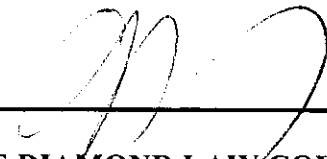
- (d) the Respondents maintain an active website known as www.ashleymadisonsucks.com, and has also registered and is the owner of a further URL, which could become an active website at any time, at www.ashleymadisonscam.com;
- (e) the Respondents direct public attention to their services and business in such a way as to cause, or likely cause, confusion in Canada between themselves, their services, and business, and the services and business of the Applicant, contrary to section 7 (b) of the *Trade-Marks Act* of Canada;
- (f) alternatively, the Respondents directs public attention to their services and business in such a way as to cause or be likely to cause confusion in Canada between the services that the Respondents provide to their own clients through their marketing services and other businesses, contrary to section 7 (b) of the *Trade-Marks Act* of Canada;
- (g) Sections 6, 19, and 53.2 of the *Trade-Marks Act* of Canada;
- (h) *Federal Courts Act* (Canada) and Rules 64, 373 and Part V of the *Federal Courts Rules*; and
- (i) such further and other grounds as the lawyers may advise and this Honourable Court may deem just.

3. The following documentary evidence will be used at the hearing of the application:

- (a) Affidavit of Noel Biderman sworn July 5, 2010.
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

Dated at the Resort Municipality of Whistler, BC, this 5th day of July 2010.

(Date of issue)



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